IN THE HIGH COURT OF ORISSA AT CUTTACK

G.A. No.24 of 1986

State of Orissa …. ***Appellant***

Mr. S.K. Mishra, *Advocate*

-versus-

Purna Chandra Jena …. ***Respondent***

Mr. A. Das,
Addl. Government Advocate

CORAM:

JUSTICE S.K. SAHOO

Order No.

ORDER

26.07.2022

I.A. No.1 of 2018

08. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

This is an application filed by the respondent Purna Chandra Jena for extension of time to appear before the learned S.D.J.M., Bhubaneswar in G.R. Case No.1780 of 1983 (T.R. No.481 of 1984) for hearing in the matter of sentence and for receiving sentence, if any, as per law for his conviction under section 224 of the Indian Penal Code as per the judgment and order of this Court dated 23.08.2005 passed in this Government Appeal No.24 of 1986.

The respondent was acquitted by the learned

S.D.J.M., Bhubaneswar of the charge under section 224 of the Indian Penal Code on 20.03.1986 and such order of acquittal was set aside by this Court in Government Appeal No.24 of 1986. There was a specific direction while disposing of the Govt. Appeal that the respondent shall appear before the learned S.D.J.M., Bhubaneswar within a period of four weeks from the date of pronouncement of the judgment for hearing in the matter of sentence and for receiving the sentence, if any, as per law and on appearance of the respondent, the learned S.D.J.M., Bhubaneswar shall hear him in the matter of sentence and pass appropriate orders and if the respondent does not appear within the time stipulated, the learned S.D.J.M., Bhubaneswar shall take coercive measure for his production in the Court. In spite of date fixed, neither the respondent appeared nor took any steps either before this Court or before the learned trial Court for which non-bailable warrant of arrest was issued against him which is yet to be executed. This interim application has been filed long after the pronouncement of the judgment by this Court on 23.08.2005.

Mr. Samir Kumar Mishra, learned counsel appearing for the respondent submitted that the respondent is ready and willing to appear before the

learned trial Court next week on any date fixed so that the operative part of the judgment passed by this Court on 23.08.2005 in Government Appeal No.24 of 1986 shall be carried out and till the date of appearance, the execution of non-bailable warrant of arrest be stayed.

Learned counsel for the State opposed the prayer.

After going through the case records and on hearing the learned counsel for the respective parties, I find that the petitioner is solely responsible for the delay in complying with the order of this Court and for non-execution of non-bailable warrant of arrest and he has avoided arrest purposefully for so many years and therefore, I am not inclined to stay the execution of non-bailable warrant of arrest.

Learned counsel for the respondent submits that the respondent shall surrender before the learned trial Court on 3rd August 2022 positively.

If the respondent surrenders before the learned S.D.J.M., Bhubaneswar on the aforesaid date, the learned Magistrate shall do well to hear both the parties on the question of sentence to be imposed on the respondent and pass appropriate order, preferably, on the same day.

With the aforesaid observation, the I.A.

stands disposed of.

Urgent certified copy of this order be granted on proper application.

(S.K. Sahoo)
Judge

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HIGH COURT
ORISSA